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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/825,028

04/15/2004

Steven V. Jones

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THE BLACK & DECKER CORPORATION  
701 EAST JOPPA ROAD, TW199  
TOWSON, MD 21286

EXAMINER

SHARP, JEFFREY ANDREW

ART UNIT

PAPER NUMBER

3677

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/24/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/825,028

Applicant(s)

JONES ET AL.

Examiner

Jeffrey Sharp

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10, 12, 13 and 19-21 is/are allowed.
- 6) ☒ Claim(s) 14-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/15/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

[1] This action is responsive to Applicant's remarks/amendment filed on 03 November 2006 with regard to the Official Office action mailed on 03 July 2006

#### ***Status of Claims***

[2] Claims 1-10 and 12-21 are pending.

#### ***Drawings***

[3] The drawings are currently objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "end of the body opposite the flange end is closed" (claim 13) must be shown or the feature(s) canceled from the claim(s).  
No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

[4] Claim 2 is currently objected to for informalities. Newly amended claim 1 already mentions a sleeve of resilient material covering the entire second portion. Examiner suggests replacing claim 2 with --wherein said sleeve of resilient material disposed about the second portion is cylindrical--.

Appropriate action is required.

### ***Response to Arguments/Remarks***

[5] Claims 1, 2, 4-10, and 12-21 were previously rejected under 35 U.S.C. 103(a) as being obvious over Gaquere US-4,481,867 in view of Aasgaard US-5,915,901.

Applicant's arguments/remarks with regard to this rejection have been fully considered, and are persuasive in view of the amendment made to the claim. Aasgaard does not appear to suggest the sleeve of resilient material "covers the entire second portion between the work piece and the flange".

Accordingly, this rejection is withdrawn. A new grounds of rejection necessitated by amendment appears below.

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[6] Claims 1-3 and 19 were previously rejected under 35 U.S.C. 103(a) as being obvious over Gaquere US-4,481,867 in view of Siebol US-4,074,608.

Applicant's arguments/remarks with regard to this rejection have been fully considered, and are persuasive in view of the amendment made to claims 1 and 19. Siebol does not appear to suggest the sleeve of resilient material "covers the entire second portion between the work piece and the flange".

Accordingly, this rejection is withdrawn.

[7] Claim 21 was previously rejected under 35 U.S.C. 103(a) as being obvious over Gaquere US-4,481,867 in view of Siebol US-4,074,608 in further view of Dolch US-4,236,429.

Applicant's arguments/remarks with regard to this rejection have been fully considered, and are persuasive in view of the amendment made to the claims, and at least for those reasons discussed above in section [6]. Siebol does not appear to suggest the sleeve of resilient material "covers the entire second portion between the work piece and the flange".

Accordingly, this rejection is withdrawn.

### ***New Grounds of Rejection***

### ***Claim Rejections - 35 USC § 102***

[8] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[9] Claims 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Siebol US-4,074,608.

In short, and when the claims are treated in their broadest reasonable sense, Siebol substantially discloses the invention as claimed, including a fastener having a body, a first portion (22), and a second portion (20), the first portion having a larger cross-sectional area than the second portion; a flange (24) integrally formed on one end of the body, a shoulder (23) defined at the intersection of first and second portions, a mandrel (25) having a head (28), the mandrel being mounted in the body, and a resilient stop (31) having an interior bore and a bearing surface (inherent), the bearing surface having uninterrupted contact with, and being coupled to the first portion. The stop is made from an elastomeric rubber compound. As for claim 17, if the stop was contacted by a carrier as an intended use, it would deform in multiple axis (i.e., in three dimensions) as would be appreciated by those of ordinary skill in the art.

***Claim Rejections - 35 USC § 103***

[10] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[11] Claim 18 is rejected under 35 U.S.C. 103(a) as being obvious over Siebol US-4,074,608.

In short, and when the claims are treated in their broadest reasonable sense, Siebol substantially discloses the invention as claimed in claim 14 as discussed above.

However, Siebol fails to disclose the durometer to be between 60 and 70 Shore A.

At the time of invention, it would have been obvious to one of ordinary skill in the art, to modify the durometer of the resilient elastomeric rubber stop taught by Siebol, to be between 60 and 70 on the Shore A scale, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Moreover, it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Furthermore, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Refer to MPEP § 2144.05. In the instant case, so long as the durometer "variable" taught by Siebol is within the acceptable range for providing a seal, discovering an optimum durometer would simply be the result of simple experimentation with expected results.

***Allowable Subject Matter***

[12] In view of Applicant's amendment/remarks filed on 03 November 2006, claims 1-10, 12, 13, and 19-21 are allowable if rewritten to overcome any of the above objections.

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*Conclusion*

[13] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

[14] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Sharp whose telephone number is (571) 272-7074. The examiner can normally be reached 7:00 am - 5:30 pm Mon-Thurs.

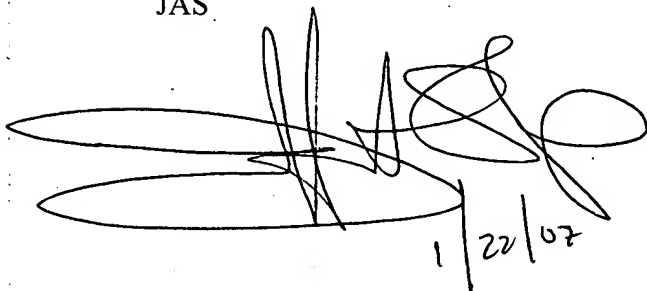
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAS



1/22/07



**ROBERT J. SANDY**  
PRIMARY EXAMINER